HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION (M) NO. 107 OF 2005.
IN
FAMILY COURT APPEAL St. NO. 9669 OF 2005.

Mr. Raghbirsingh. ..Applicant.
Versus.
Mrs. Rupender Kaur. ..Respondent.

Mr. S.J.Ghogare for the applicant.

Mr. Sandesh D.Patil for the respondent.

CORAM: S.B.MHASE &
S.R.SATHE JJ

DATE: AUGUST 8, 2005.

P.C.

1. This is delay condonation application to condone the delay of 2 years and 62 days in filing the Family Court Appeal preferred as against the decree passed by the Joint Civil Judge, Senior Division, Thane in Marriage Petition No. 66 of 2001 decided on 20.11.2002. By this decree, the petition filed by the present applicant for divorce has been dismissed. Learned counsel for the respondent Mr. S.D.Patil, while opposing the delay condonation application, pointed out that the proceedings of the Family Court Appeal and delay condonation application are incompetent before this Court. He has submitted that the present FCA is directed against the decree of dismissal of

marriage petition No. 66 of 2001 passed by the Joint Civil Judge Senior Division, Thane, and, therefore the FCA as against the said judgment and decree will lie with the District Judge, Thane. He pointed out that only from the marriage petitions decided by the Family Court, Family Court Appeal will lie before this Court. Learned counsel Mr. Ghogare appearing on behalf of the applicant accepts this position in law and submits that under the circumstances the appeal memo and delay condonation application be returned back to submit it to the appropriate forum for further adjudication. We, therefore, pass the following order.

O R D E R.

Office is directed to return back the appeal and delay condonation application to the applicant herein so as to present it before the appropriate forum.

(S.R.SATHE,J.) **(S.B.MHASE, J.)**

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